

**I. CASE STYLE**

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT  
IN AND FOR MARION COUNTY, FLORIDA

BERNARD DECASTRO,

CASE NO. 12-1320-CAG

Plaintiff,

vs.

CHRIS BLAIR and  
DEE BROWN, as Supervisor of  
Elections, Marion County, Florida,

Defendants.

FILED  
CIRCUIT CIVIL  
12 OCT 26 AM 10:45  
DAVID R. ALLMON  
CLERK CIRCUIT COURT  
MARION COUNTY, FL

**II. TYPE OF CASE** (If the case fits more than one type of case, select the most definitive category.) If the most descriptive label is a subcategory (is indented under a broader category), place an x in both the main category and subcategory boxes.

- |  |  |
|--|--|
| <input type="checkbox"/> Condominium                     | <input type="checkbox"/> Nonhomestead residential foreclosure<br>\$50,001 - \$249,999  |
| <input type="checkbox"/> Contracts and indebtedness      | <input type="checkbox"/> Nonhomestead residential foreclosure<br>\$250,000 or more     |
| <input type="checkbox"/> Eminent domain                  | <input type="checkbox"/> Other real property actions \$0 - \$50,000                    |
| <input type="checkbox"/> Auto negligence                 | <input type="checkbox"/> Other real property actions \$50,001 -<br>\$249,999           |
| <input type="checkbox"/> Negligence - other              | <input type="checkbox"/> Other real property actions \$250,000 or<br>more              |
| <input type="checkbox"/> Business governance             | <input type="checkbox"/> Professional malpractice                                      |
| <input type="checkbox"/> Business torts                  | <input type="checkbox"/> Malpractice - business  |
| <input type="checkbox"/> Environmental/Toxic tort        | <input type="checkbox"/> Malpractice - medical   |
| <input type="checkbox"/> Third party indemnification     | <input type="checkbox"/> Malpractice - other professional                              |
| <input type="checkbox"/> Construction defect             | <input checked="" type="checkbox"/> Other  |
| <input type="checkbox"/> Mass tort                       | <input type="checkbox"/> Antitrust/Trade regulation                                    |
| <input type="checkbox"/> Negligent security              | <input type="checkbox"/> Business transactions   |
| <input type="checkbox"/> Nursing home negligence         | <input checked="" type="checkbox"/> Constitutional challenge - statute or<br>ordinance |
| <input type="checkbox"/> Premises liability - commercial | <input type="checkbox"/> Constitutional challenge - proposed                           |

amendment

- |   |   |
|---|---|
| <input type="checkbox"/> Premises liability - residential                       | <input type="checkbox"/> Corporate trusts                     |
| <input type="checkbox"/> Products liability                                     | <input type="checkbox"/> Discrimination - employment or other |
| <input type="checkbox"/> Real property/Mortgage foreclosure                     | <input type="checkbox"/> Insurance claims                     |
| <input type="checkbox"/> Commercial foreclosure \$0 - \$50,000                  | <input type="checkbox"/> Intellectual property                |
| <input type="checkbox"/> Commercial foreclosure \$50,001 - \$249,999            | <input type="checkbox"/> Libel/Slander                        |
| <input type="checkbox"/> Commercial foreclosure 250,000 or more                 | <input type="checkbox"/> Shareholder derivative action        |
| <input type="checkbox"/> Homestead residential foreclosure \$0 - \$50,000       | <input type="checkbox"/> Securities litigation                |
| <input type="checkbox"/> Homestead residential foreclosure \$50,001 - \$249,999 | <input type="checkbox"/> Trade secrets                        |
| <input type="checkbox"/> Homestead residential foreclosure \$250,000 or more    |   |
| <input type="checkbox"/> Nonhomestead residential foreclosure \$0 - \$50,000    |   |

**III. REMEDIES SOUGHT (check all that apply):**

- ☐ monetary  
☒ nonmonetary declaratory or injunctive relief  
☐ punitive

**IV. NUMBER OF CAUSES OF ACTION: [4]**

**Declaratory Relief – As to Qualification of Defendant Chris Blair**

**Declaratory Relief – As to Absentee Ballots**

**Injunctive Relief – As to Defendant Chris Blair and Defendant Dee Brown**

**Injunctive Relief – As to Defendant Dee Brown**

**V. IS THIS CASE A CLASS ACTION LAWSUIT?**

- ☐ yes  
☒ no


**VI. HAS NOTICE OF ANY KNOWN RELATED CASE BEEN FILED?**

- ☒ no  
☐ yes      If "yes", list all related cases by name, case number, and court.

**VII. IS JURY TRIAL DEMANDED IN COMPLAINT?**

- ☐ yes  
☒ no

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief.

Signature   
Attorney or party

FL Bar No.: N/A  
(Bar number, if attorney)

Bernard DeCastro  
(Type or print name)

October 26, 2012  
Date

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT  
IN AND FOR MARION COUNTY, FLORIDA

BERNARD DECASTRO,

Plaintiff,

vs.

CHRIS BLAIR and  
DEE BROWN, as Supervisor of  
Elections, Marion County, Florida,

Defendants.

CASE NO. 12-4320-CAG

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MARION COUNTY, FL

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

COMES NOW, Plaintiff, **BERNARD DECASTRO**, hereby files this **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** and in support thereof alleges as follows:

**PARTIES**

1. Plaintiff is the current Constitutional Party of Florida candidate for Sheriff in Marion County, Florida.
2. Plaintiff is a resident of Marion County, Florida.
3. Defendant, Chris Blair, is the current Republican candidate for Sheriff in Marion County, Florida.
4. Defendant, Chris Blair, is a resident of Marion County, Florida.
5. Defendant, Dee Brown, is the current Supervisor of Elections for Marion County, Florida.

## **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over this action pursuant to Article V, section 5(b) of the Florida Constitution and section 26.012, Florida Statutes.

7. This Court has jurisdiction to grant declaratory relief pursuant to Article V, section 5(b) of the Florida Constitution and section 86.011, Florida Statutes.

8. This Court has jurisdiction to grant injunctive relief pursuant to Article V, section 5(b) of the Florida Constitution and section 26.012(3), Florida Statutes and Florida Rule of Civil Procedure 1.610.

9. Venue is proper in Marion County, Florida pursuant to section 47.011, Florida Statutes because the Supervisor of Elections Office is located in Marion County, Florida, and the cause of action accrued in Marion County, Florida.

## **FACTUAL ALLEGATIONS**

10. The general election for Sheriff of Marion County, Florida is scheduled for November 6, 2012.

11. Former Republican candidate Dan Kuhn defeated Defendant, Chris Blair, in the Republican Primary on August 14, 2012.

12. On or about October 4, 2012, Dan Kuhn resigned from the election for Sheriff of Marion County, Florida.

13. On or about October 10, 2012, pursuant to section 100.111(3), Florida Statutes, the Republican Executive Committee selected Defendant, Chris Blair as its replacement nominee for Sheriff in Marion County, Florida.

14. The selection of Defendant, Chris Blair, by the Republican Executive Committee was submitted after the certification of the results from the Republican primary election of

August 14, 2012 and thus, the name of former Republican candidate, Dan Kuhn, will appear on the ballots during the general election on November 6, 2012.

15. Early voting in Marion County, Florida is scheduled to begin on October 27, 2012.

16. Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida has published on the Supervisor of Elections Website for Marion County, Florida a "Sheriff Contest Voter Notice" which states:

**Notice to the Voter**

A candidate in the race for the office of Sheriff has withdrawn, resulting in a replacement candidate as permitted by law.

Please be advised that:

A vote cast for Dan Kuhn will count for Chris Blair.

A vote cast for Bernie DeCastro will count for Bernie DeCastro.

A vote cast for the qualified write-in candidate will count for the write-in candidate.

**COUNT I – DELCARTORY RELIEF AS TO QUALIFICATION OF DEFENDANT  
CHRIS BLAIR AS REPUBLICAN CANDIDATE FOR SHERIFF**

17. Plaintiff re-alleges allegations 1 through 16 as if fully set forth herein.

18. Section 100.111(3) (c), Florida Statutes states:

"Any person who, at the close of qualifying as prescribed in ss. 96.061 and 105.031, was qualified for nomination or election to or retention in a public office to be filled at the ensuing general election or who attempted to qualify and failed to qualify is prohibited from qualifying as a candidate to fill a vacancy in nomination for any other office to be filled at that general election..."

19. Defendant, Chris Blair, was qualified for nomination or election as the close of qualifying as described in paragraph 18 and Florida Statute.

20. Defendant, Chris Blair, was defeated at the Republican primary election by former candidate Dan Kuhn.

21. As a result of his defeat in the Republican primary election, Defendant, Chris Blair is not qualified to be selected as the replacement nominee from the Republican Executive Committee.

22. If Defendant, Chris Blair is permitted to remain as the replacement nominee for the Republican candidate for Sheriff of Marion County, Florida and is not properly qualified pursuant to Florida law, then irreparable harm will be caused to the other candidates, including Plaintiff, and to the voters of Marion County, Florida.

23. Declaratory relief is appropriate in this matter, for the Court to declare whether Defendant, Chris Blair is properly qualified pursuant to Florida law to prevent irreparable harm herein.

**COUNT II – DECLARATORY RELIEF AS TO ABSENTEE BALLOTS CAST PRIOR  
TO THE SELECTION OF REPLACEMENT CANDIDATE DEFENDANT, CHRIS  
BLAIR BY THE REPUBLICAN EXECUTIVE COMMITTEE**

24. Plaintiff re-alleges paragraphs 1 through 16 as if fully set forth herein.

25. Upon information and belief, Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida has received absentee ballots from voters whom cast their votes prior to the selection of Defendant, Chris Blair, as the replacement Republican candidate for Sheriff by the Republican Executive Committee.

26. Upon information and belief, Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida has not segregated the absentee ballots that were received prior to the replacement selection of Defendant, Chris Blair, by the Republican Executive Committee from those which were cast subsequent to the replacement selection of Defendant, Chris Blair.

27. Any absentee votes that were made prior to the selection of Defendant, Chris Blair, by the Republican Executive Committee as the replacement candidate for Sheriff of Marion County, Florida were not made in favor of Defendant, Chris Blair.

28. Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida has included the language listed in paragraph 16 herein on the Marion County Supervisor of Elections website in an apparent effort to inform potential voters of how their vote for former candidate Dan Kuhn will be counted as a vote for replacement candidate, Defendant, Chris Blair.

29. If an absentee voter cast their vote prior to the selection of replacement candidate, Defendant, Chris Blair, the voter did not knowingly cast a vote for Defendant, Chris Blair and said vote should not be included in any tally of votes for Defendant, Chris Blair prior to certification of the election results.

30. Plaintiff will suffer irreparable harm if a voter who cast their vote for former candidate Dan Kuhn would not have cast their vote if they had known said vote would be counted for replacement candidate, Defendant, Chris Blair.

31. Upon information and belief, absentee voters were not provided any guidance as to the fact that their vote for former candidate Dan Kuhn would be counted as a vote for replacement candidate, Defendant, Chris Blair.

32. This Court must issue a declaratory judgment as to the inclusion or exclusion of absentee ballots that were cast prior to selection of replacement candidate, Defendant, Chris Blair to ensure the manifest justice of the electoral process for Sheriff of Marion County, Florida.

33. In the event Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida is unable to distinguish between absentee ballot votes cast prior to or subsequent



to the selection of replacement candidate, Defendant, Chris Blair, then this Court must issue a declaratory judgment as to the inclusion or exclusion of said absentee ballots.

**COUNT III – INJUNCTIVE RELIEF AGAINST DEFENDANT CHRIS BLAIR AND  
DEFENDANT, DEE BROWN, AS SUPERVISOR OF ELECTIONS FOR MARION  
COUNTY, FLORIDA**

34. Plaintiff re-alleges paragraphs 1 through 16 as if fully set forth herein.

35. Since his selection as the replacement candidate, Defendant, Chris Blair has disseminated political advertisements that state to vote for Defendant, Chris Blair vote for Dan Kuhn whose name is on the ballot.

36. In addition, Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida has placed Sheriff Contest Voter Notice referenced in paragraph 16 herein.

37. Pursuant to section 101.5611, Florida Statutes, the Supervisor of Elections and/or the precinct official is not permitted to favor any political party, candidate, or issue.

38. The dissemination of materials such as the Sheriff Contest Voter Notice is tantamount to a political advertisement.

39. Pursuant to section 102.031(4) (a), Florida Statutes, no person....may solicit voters inside the polling place or within 100 feet of the entrance to any polling place...or early voting site.”

40. Any materials which specifies that a vote for former candidate Dan Kuhn is a vote for replacement candidate, Chris Blair, is a solicitation pursuant to Florida Statute and must be enjoined from dissemination pursuant to sections 101.5611 and 102.031(4)(a), Florida Statutes.

41. This request for injunctive relief is appropriate as early voting is scheduled to commence on October 27, 2012 in Marion County, Florida.

42. Pursuant to Florida Rule of Civil Procedure 1.610, Plaintiff is entitled to an immediate injunction to prevent the dissemination of any materials containing language stated in paragraphs 16 and 35 herein as (1) Plaintiff's claim has a substantial likelihood of success on the merits; (2) Plaintiff has no adequate remedy of law; (3) Irreparable harm will occur unless immediate injunctive relief is granted; and (4) Injunctive relief serves the public interest.

**COUNT IV – INJUNCTIVE RELIEF FROM CERTIFICATION OF ELECTION RESULTS AGAINST DEFENDANT, DEE BROWN, AS SUPERISOR OF ELECTIONS**

43. Plaintiff re-alleges paragraphs 1 through 33 as if fully states herein.

44. Until such time as the Court rules herein, Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida should be enjoined from certifying the results of the election for Sheriff of Marion County, Florida.

45. Pursuant to Florida Rule of Civil Procedure 1.610, Plaintiff is entitled to an immediate injunction to prevent the certification of the election results for Sheriff of Marion County, Florida because (1) Plaintiff's claim has a substantial likelihood of success on the merits; (2) Plaintiff has no adequate remedy of law; (3) Irreparable harm will occur unless immediate injunctive relief is granted; and (4) Injunctive relief serves the public interest.

**REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiff, **BERNARD DECASTRO**, respectfully requests this Court issue declaratory judgment and injunctive relief as follows:

A. Declare whether Defendant, Chris Blair, is a qualified candidate for the office of Sheriff of Marion County, Florida for the 2012 general election;

B. Declare whether Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida must include or exclude absentee ballots cast for former candidate Dan Kuhn as votes for replacement candidate, Defendant, Chris Blair.

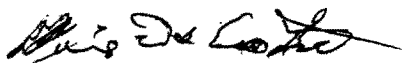
C. Issue a temporary and permanent injunction against Defendant Chris Blair from disseminating any political advertisements or language regarding the vote for Dan Kuhn counting as a vote for Defendant, Chris Blair in violation of Florida Statute.

D. Issue a temporary and permanent injunction against Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida from disseminating any materials which favor one candidate in violation of Florida Statute.

E. Issue a temporary and permanent injunction against Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida from certifying the results of the election for Sheriff of Marion County, Florida until such time as the relief sought herein is tried before this Court.

F. Grant such further relief the Court deems just and proper.

Respectfully submitted this 26<sup>th</sup> day of October, 2012.



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Bernard DeCastro  
P.O. Box 3336  
Ocala, Florida 34478  
Telephone (352) 840-9606  
Plaintiff

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT  
IN AND FOR MARION COUNTY, FLORIDA

BERNARD DECASTRO,

CASE NO. 12-4320-CAG

Plaintiff,

vs.

CHRIS BLAIR and  
DEE BROWN, as Supervisor of  
Elections, Marion County, Florida,

Defendants.

FILED  
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12 OCT 26 AM 10:45  
CLERK CIRCUIT COURT  
MARION COUNTY, FL

**EMERGENCY MOTION FOR IMMEDIATE INJUNCTIVE RELIEF**

COMES NOW, Plaintiff, **BERNARD DECASTRO**, hereby files this **EMERGENCY MOTION FOR IMMEDIATE INJUNCTIVE RELIEF** and in support thereof alleges as follows:

1. Plaintiff re-alleges and asserts each and every allegation set forth in the Complaint for Declaratory and Injunctive Relief filed simultaneous herewith.
2. Due to the impending general election as well as the early voting scheduled to begin on October 27, 2012, the Plaintiff requests this Court enter an immediate temporary injunction as requested in the Complaint for Declaratory and Injunctive Relief.

Respectfully submitted this 26 day of October, 2012.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this affidavit and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Bernard DeCastro

Bernard DeCastro  
P.O. Box 3336  
Ocala, Florida 34478  
Telephone (352) 840-9606  
Plaintiff

STATE OF FLORIDA  
COUNTY OF MARION

Sworn to or affirmed and signed before me on Oct. 26, 2012 by Joyce A. Berndt.



Deborah Carroll  
NOTARY PUBLIC or DEPUTY CLERK

[Print, type or stamp commissioned name of notary or clerk]

X

Personally known

Produced identification

Type of identification produced \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY, that a true and correct copy of the foregoing was furnished to a process server for service on the Defendants, Chris Blair and Dee Brown, as Supervisor of Elections for Marion County, Florida this 26 day of October, 2012 and was served on the date and time indicated on the Affidavit of Service.

Bernard DeCastro

Bernard DeCastro  
P.O. Box 3336  
Ocala, Florida 34478  
Telephone (352) 840-9606  
Plaintiff

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT  
IN AND FOR MARION COUNTY, FLORIDA

BERNARD DECASTRO,

CASE NO. 12-4320-CA-G

Plaintiff,

vs.

CHRIS BLAIR and  
DEE BROWN, as Supervisor of  
Elections, Marion County, Florida,

Defendants.

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SUMMONS

**THE STATE OF FLORIDA:**

To Each Sheriff of the State:

**YOU ARE COMMANDED** to serve this Summons and a copy of the Complaint or Petition in this action on Defendant, Dee Brown, as Supervisor of Elections for Marion County, Florida.

Each Defendant is required to serve written defenses to the Complaint or Petition on Bernard DeCastro, Plaintiff's attorney, whose address is P.O. Box 3336, Ocala, Florida 34478, within twenty (20) days after service of this Summons on that Defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint or Petition.

DATED on Oct. 26, 2012.

David R. Ellspermann  
As Clerk of the Court

By G. Kettner  
Deputy Clerk

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT  
IN AND FOR MARION COUNTY, FLORIDA

BERNARD DECASTRO,

CASE NO. 12-4320-CA-G

Plaintiff,

vs.

CHRIS BLAIR and  
DEE BROWN, as Supervisor of  
Elections, Marion County, Florida,

Defendants.

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SUMMONS

**THE STATE OF FLORIDA:**

To Each Sheriff of the State:

**YOU ARE COMMANDED** to serve this Summons and a copy of the Complaint or Petition in this action on Defendant, Chris Blair.

Each Defendant is required to serve written defenses to the Complaint or Petition on Bernard DeCastro, Plaintiff's attorney, whose address is P.O. Box 3336, Ocala, Florida 34478, within twenty (20) days after service of this Summons on that Defendant, exclusive of the day of service, and to file the original of the defenses with the Clerk of this Court either before service on Plaintiff's attorney or immediately thereafter. If a Defendant fails to do so, a default will be entered against that Defendant for the relief demanded in the Complaint or Petition.

DATED on October 26, 2012.

David R. Ellspermann  
As Clerk of the Court

By

Deputy Clerk

T. Keltner

CIRCUIT CIVIL DIVISION  
OFFICE OF DAVID R. ELLSPERMANN-CLERK OF THE CIRCUIT COURT

DUPLICATE RECEIPT: 10-26-2012

RECEIPT #: V 000101570  
RECEIVED OF: DECASTRO BERNARD  
PART. ID: 1547677  
BY CLERK: DELGADO JESSICA  
CHECKS: PC 155  
PC 156

DATE: 10-26-2012

TIME: 10:54:05

MEMO:

\$400.00

\$20.00

CASH \$0.00	CREDIT \$0.00	CHANGE \$0.00	OTHER \$0.00		
CASE NUMBER		EVENT	JUDGE	TAX NO.	AMOUNT
42-2012-CA-004320-XXXX-XX DECASTRO V BLAIR PARTY: DECASTRO BERNARD		208	PAY:GENERAL CIRCUIT CIVIL CASE  WJS W JACK SINGBUSH		\$400.00
42-2012-CA-004320-XXXX-XX DECASTRO V BLAIR PARTY: DECASTRO BERNARD		133	PAY: ISSUE SUMMONS-CA  WJS W JACK SINGBUSH		\$20.00
TOTAL RECEIPT...					\$420.00

\* CHECK/CHEQUE IS CONDITIONAL PAYMENT

\* PENDING RECEIPT OF FUNDS FROM BANK. \*